

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION**

No. 5:11-CV-00168-BO

DAVID PAUL PHILLIPS,)
)
Plaintiff,)
)
v.)
)
UNITED STATES OF AMERICA,)
)
Defendant.)

**ORDER AND
MEMORANDUM AND
RECOMMENDATION**

This matter is before the Court on *pro se* Plaintiff's application to proceed *in forma pauperis* under 28 U.S.C. § 1915 [DE-1]. Plaintiff is unemployed and his monthly expenses exceed his monthly income. Thus, the Court finds that Plaintiff has demonstrated appropriate evidence of inability to pay the required court costs, and his application is allowed.

Notwithstanding the determination that a plaintiff is entitled to *in forma pauperis* status, the Court is required to dismiss all or part of an action found to be frivolous or malicious, which fails to state a claim upon which relief can be granted, or which seeks money damages from a defendant immune from such recovery. 28 U.S.C. § 1915(e)(2); *Michau v. Charleston County, S.C.*, 434 F.3d 725, 728 (4th Cir. 2006). A case is frivolous if it lacks an arguable basis in either law or fact. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). *Pro se* complaints are entitled to more liberal treatment than pleadings drafted by attorneys. See *White v. White*, 886 F.2d 721, 722-23 (4th Cir. 1989).

After careful review of Plaintiff's Complaint [DE-1-1], and giving due consideration to Plaintiff's *pro se* status, the Court concludes that Plaintiff's complaint fails to state a claim on which relief may be granted.

Plaintiff's complaint lists the acts complained of in this suit as "Lack of investigation of reported bombings against the U.S.A." and "Lack of investigation of torture, kidnapping, theft of music, movies, corporate buildings" and requests relief in the form of "1 Billions Dollars." Compl. [DE-1-1] at 2, 4. However, the complaint is otherwise devoid of any facts or jurisdictional foundations. Based on the allegations made in the complaint, the Court is unable to discern any factual or jurisdictional basis for Plaintiff's claims against the named defendant. Accordingly, the Court finds that Plaintiff has failed to state any claim upon which relief may be granted in federal court, and recommends that the complaint be dismissed.

CONCLUSION

Plaintiff's application to proceed *in forma pauperis* [DE-1] is **GRANTED**. However, the Court **RECOMMENDS** that the Complaint [DE-1-1] be **DISMISSED** for failure to state a claim upon which relief may be granted.

The Clerk shall send a copy of this Order and Memorandum and Recommendation to the *pro se* Plaintiff, who shall have fourteen (14) days from the date of receipt to file written objections. Failure to file timely written objections shall bar an aggrieved party from receiving a de novo review by the District Court on an issue covered in the Memorandum and, except upon grounds of plain error, from attacking on appeal the proposed factual findings and legal conclusions not objected to, and accepted by, the District Court.

This the 15th day of April, 2011.



DAVID W. DANIEL
United States Magistrate Judge